From: Hayes, Jonathan
To: Nichols, Clay
Subject: RE: [EXTERNAL] Chicken stuff
Date: Thursday, May 31, 2018 5:45:03 PM

Uggh, thinking about this is definitely making me dread the 12 month finding. I hope a scientifically defensible choice is made by the administration.

Thanks for the info and thanks for the work you guys are doing, I'm sure it's not easy these days.

From: Nichols, Clay <clay_nichols@fws.gov>
Sent: Thursday, May 31, 2018 2:06 PM
To: Hayes, Jonathan <jhayes@audubon.org>
Subject: Re: [EXTERNAL] Chicken stuff

Good deal.

Yes the SSA is the biological analysis that will be used to inform the 12 month finding.

So there are really 4 possibilities for a 12 month finding. Below are each of the possibilities and the next steps:

- We could find that the LPC is Not Warranted for Listing under the ESA. If this is the 12 month finding then that would be a final agency action and there would be no public comment period. At that point we could then be challenged in court on the decision.
- We could find that the LPC is Warranted for Listing under the ESA but precluded by other higher priorities. If this is the 12 month finding then the LPC would be a candidate species (again) and there would be no public comment period. This could be something that we could be challenged on in court.
- We could find that the LPC is Warranted for Listing and Propose it as a Threatened Species. If this is the 12 month finding then we would have a public comment period and 12 more months to review the status before making a final determination. NOTE we could grant an additional 6 months review time before that final determination if there is scientific uncertainty.
- We could find t hat the LPC is Warranted for Listing and Propose it as an Endangered Species. If this is the 12 month finding then we would have a public comment period and 12 more months to review the status before making a final determination. NOTE we could grant an additional 6 months review time before that final determination if there is scientific uncertainty.

Please let me know if there are any questions

Talk to you soon

Clay

Clay Nichols
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On Thu, May 31, 2018 at 2:49 PM, Hayes, Jonathan <jhayes@audubon.org> wrote:

> Yeah things are good so far. Busy, but good.
>
> So help me understand. 12 month finding will be a decision to list or not list based on SSA findings, is that right? Will there be a comment period following the 12 month finding?
>
> **From:** Nichols, Clay <clay_nichols@fws.gov>
> **Sent:** Thursday, May 31, 2018 11:43 AM
> **To:** Hayes, Jonathan <jhayes@audubon.org>
> **Subject:** Re: [EXTERNAL] Chicken stuff
>
> Jon,
>
> It is great to hear from you! All is going well on me end.....How is Audubon NM treating you?
>
> Good question on the SSA. We took some extra time to do some more coordination with the States on the SSA before finalizing it. Right now the plan is to make the SSA available at the same time as we make a 12 month finding. We are trying to complete that by the end of the fiscal year. So hopefully in the next 3 months or so something will out there.
>
> Please let me know if there are any question
>
> Talk to you soon
>
> Clay
>
> **Clay Nichols**
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> **U.S. Fish & Wildlife Service**
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>
> On Wed, May 30, 2018 at 5:34 PM, Hayes, Jonathan <jhayes@audubon.org> wrote:
>
> |

Hey Clay,

Hope all is well. I was just having a conversation with someone about LEPC and I realized that we haven't seen the SSA get released yet. I thought you guys were pretty close to the finish line on that, what's the deal? Any idea when it will be released to the public?

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